

REGULATION AND LICENSING

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over Base Year Doubled	
						Amount	Percent
PR	\$24,903,400	\$24,418,300	\$23,044,300	\$23,044,300	\$23,044,300	- \$1,859,100	- 7.5%

FTE Position Summary						
Fund	2000-01 Base	2002-03 Governor	2002-03 Jt. Finance	2002-03 Legislature	2002-03 Act 16	Act 16 Change Over 2000-01 Base
PR	140.50	137.50	135.50	135.50	135.50	- 5.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide standard adjustments to the base budget for: (a) turnover reduction (-\$158,200 annually); (b) removal of noncontinuing elements from the base (-\$383,900 and -9.0 project positions annually); (c) full funding of continuing salaries and fringe benefits (\$39,400 annually); (d) overtime (\$5,100 annually); (e) night and weekend differential (\$400 annually); and (f) fifth week of vacation as cash (\$30,400 annually).

Funding Positions		
PR	- \$933,600	- 9.00

2. INFORMATION TECHNOLOGY INITIATIVES [LFB Paper 790]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$1,299,200	2.00	-\$841,400	- 2.00	\$457,800	0.00

Governor: Provide \$716,400 in 2001-02 and \$582,800 in 2002-03 and 2.0 positions annually for the following information technology (IT) initiatives: (a) routine replacements of desktop and network-based hardware and software on a master lease schedule designed to replace the equipment on a three- to five-year basis (\$264,100 in 2001-02 and \$193,700 in 2002-03); (b) increased in-house technical staff to support the agency's IT hardware, software, applications and infrastructure development (\$96,900 in 2001-02 and \$121,700 in 2002-03 and 1.0 IT specialist and 1.0 IT analyst annually); (c) one-time funding for a consultant to complete documentation of the agency's data standards (\$20,000 in 2001-02); (d) a study of the distribution and answering of telephone inquiries through the agency's existing interactive voice response system and the possible implementation of the findings of the study (\$33,800 in 2001-02 and \$43,800 in 2002-03); (e) consultant services to upgrade the agency's ability to deliver services through the Internet ("e-commerce") (\$145,600 annually); and (f) one-time funding for nine months of fulltime consultant services to assess the types of agency services that should be moved to an e-commerce environment (\$156,000 in 2000-01 and \$78,000 in 2002-03).

Of the amounts provided under (d), \$30,200 in 2001-02 would be provided as one-time funding and \$40,200 in 2002-03 would be placed in unallotted reserve for release by DOA pending the documentation of needed changes to the agency's existing interactive voice response system based on the results of the study of the system.

Joint Finance/Legislature: Delete \$452,300 in 2001-02 and \$389,100 in 2002-03 and 2.0 positions annually associated with the following IT initiatives: (a) \$96,900 in 2001-02 and \$121,700 in 2002-03 and 2.0 positions annually for in-house technical staff; and (b) \$355,400 in 2001-02 and \$267,400 in 2002-03 for IT-related consulting services and IT maintenance funding. Funding would continue to be provided for routine replacements of desktop and network-based hardware and software (\$264,100 in 2001-02 and \$193,700 in 2002-03).

Place \$170,800 in 2001-02 and \$150,800 in 2002-03 in the Joint Committee on Finance's supplemental appropriation to be reserved for the following purposes: (a) \$20,000 in 2001-02 for documentation of the R&L's data standards; (b) \$33,800 annually for a study of the distribution of telephone inquiries through the agency's existing interactive voice response system; and (c) \$117,000 annually for possible consultant services relating to e-commerce activities.

These reserved funds could be released to R&L by the Committee in whole or in part under existing 14-day passive review procedures once the Department has submitted to the Committee a detailed expenditure plan which includes an analysis of: (a) the degree to which the requested IT enhancements can be provided in a more cost-effective manner by existing agency staff; (b) the degree to which the requested IT enhancements can be provided in a more cost-effective manner by Department of Electronic Government staff; (c) the degree to which it would be more cost-effective to use the reserved funds to support an additional agency position rather than engage additional consultant services; and (d) detailed costs projections for each proposed IT enhancement project for which funding is requested.

3. EXAMINATION FEE VENDOR PAYMENT REESTIMATE [LFB Paper 791]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	- \$1,200,000	- \$400,000	- \$1,600,000

Governor: Delete \$600,000 annually of expenditure authority for examination fee payments for tests prepared and administered by the agency and for those provided by outside test services. Base level expenditure authority for examination fee payments is \$1,681,900 annually. The proposed reduction is intended to adjust the agency's examination fee expenditure authority primarily as it relates to payments to independent national test services. The fees received by national test vendors for approved examinations are currently being collected directly by these national test vendors and are not being accounted for by the Department.

As recommended by the Governor, \$800,000 annually budgeted for actual payments to vendors would be deleted. However, because the reestimate is based only on six months of actual payment experience during 1999-00, an off-setting amount of \$200,000 annually would also be placed in unallotted reserve, resulting in the proposed net reduction of \$600,000 annually. The amounts in unallotted reserve would be available to the Department in case additional examination fee expenditures above the agency's projections were actually required during each fiscal year of the next biennium.

Specify that if the Department prepares, administers, or grades an examination, the Department would no longer be required to collect the costs of obtaining and administering an approved examination from a test service. The Department would continue to collect the current law costs of preparing, administering or grading the examination that it provides. Specify that if the Department approves an examination that is prepared, administered and graded by a test service provider, the agency would charge a fee equal to its best estimate of the actual costs of approving the examination, including the selection, evaluation and review of the examination.

Joint Finance/Legislature: Delete \$200,000 annually budgeted in unallotted reserve for examination fee vendor payments.

[Act 16 Section: 3506]

4. DIVISION OF ENFORCEMENT STAFFING INCREASES

	Funding	Positions
PR	\$231,200	3.00

Governor/Legislature: Provide \$103,800 in 2001-02 and \$127,400 in 2002-03 and 3.0 positions annually (2.0 paralegals and 1.0 consumer protection investigator) to expedite the Division of Enforcement's ability to process complaints against credential holders. The proposed staffing and associated funding

would convert to permanent status 3.0 FTE of 7.0 expiring project positions that have been engaged in a three-year pilot project to expedite complaint processing against credential holders. All of the current project positions would be eliminated under the agency's standard budget adjustments.

5. INCREASED STAFFING FOR NEWLY-REGULATED OCCUPATIONS

	Funding	Positions
PR	\$78,100	1.00

Governor/Legislature: Provide \$35,800 in 2001-02 and \$42,300 in 2002-03 and 1.0 FTE position annually for additional staffing resources for newly-regulated professions, as follows: (a) \$13,900 for 2001-02 and \$15,000 for 2002-03 and 0.5 program assistant position to help staff the regulation of athletic trainers; and (b) \$21,900 in 2001-02 and \$27,300 in 2002-03 and 0.5 FTE attorney position to help staff the regulation of professional geologists, hydrologists and soil scientists. The proposed staffing and associated funding resources for the regulation of professional geologists, hydrologists and soil scientists would convert to permanent status 0.5 FTE of 2.0 expiring project positions that were provided shortly after these professions were first regulated. All the current project positions would be eliminated under the agency's standard budget adjustments.

6. LICENSURE OF PRIVATE SECURITY AGENCIES AND ISSUANCE OF PRIVATE SECURITY PERMITS

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$10,000	- \$10,000	\$0

Governor: Provide \$10,000 in 2001-02 to support the Department's costs of developing an examination for managers of private security agencies.

Joint Finance/Legislature: Delete provision.

7. REVISED CREDENTIAL FEE SCHEDULES [LFB Paper 792]

PR-REV	\$3,325,320
--------	-------------

Governor: Modify the fees for the credentials issued for various regulated occupations, effective the later of September 1, 2001, or the first day of the second month after publication of the biennial budget act.

Initial Credential Fee. Increase from \$44 to \$56 the statutory amount of the initial credential fee required of applicants when submitting materials for an initial professional license. The new \$56 initial credential fee would generate estimated program revenues totaling \$2,175,500 during the 2001-2003 biennium, representing an increase compared to current law of \$762,600. The agency's supporting fee study data used to develop the required initial credential fee level

under the Governor's recommendations indicates an initial fee should be established at the \$53 level.

Credential Renewal Fees. Increase from \$44 to \$53 the non-variable base component of the biennial credential renewal fee. Virtually all credential holders pay this base fee when they biennially renew their licenses. The non-variable component of the renewal fee is derived from spreading most of the Department's administrative costs proportionately among all the credential holders. In addition, some professions generate enforcement workload for the Department. Credential holders in such professions pay a higher renewal fee, consisting of the non-variable base component plus a variable fee amount based on the profession's portion of selected enforcement costs (based on the two-year enforcement period from July 1, 1998, through June 30, 2000). As a result of the recommended changes to the non-variable and variable components of credential renewal fees, the Department expects to receive program revenues totaling \$18,066,300 during the 2001-03 biennium, representing an increase compared to current law of \$2,562,700.

Joint Finance/Legislature: Include a technical modification to set the statutory initial credential fee at the corrected level of \$53, based on the Governor's recommended funding levels, rather than the \$56 contained in the bill.

The current and proposed license renewal fees for each regulated occupation or activity are shown in the following table.

[Act 16 Sections: 3505, 3509, 3511 thru 3532, 3533 thru 3579, 3580 thru 3592 and 9443(2)]

Current and Proposed License Renewal Fees

Credential Type	Renewal Fee			Credential Type	Renewal Fee		
	Current	Act 16	Change		Current	Act 16	Change
Accountant, Certified Public	\$52	\$59	\$7	Hydrologist, Professional	\$44	\$53	\$9
Accountant, Public	44	53	9	Hydrology Firm/Corporation	44	53	9
Accounting Corporation or Partnership	47	56	9	Interior Designer	47	56	9
Acupuncturist	78	70	-8	Landscape Architect	51	56	5
Aesthetician	58	87	29	Land Surveyor	75	77	2
Aesthetics Establishment	47	70	23	Manicuring Establishment	44	53	9
Aesthetics Instructor	47	70	23	Manicuring Instructor	44	53	9
Aesthetics School	115	115	0	Manicuring School	118	118	0
Aesthetics Specialty School	44	53	9	Manicuring Specialty School	44	53	9
Appraiser, Certified General Real Estate	108	162	54	Manicurist	131	133	2
Appraiser, Certified Residential Real Estate	114	167	53	Marriage and Family Therapist	82	84	2
Appraiser, Licensed Real Estate	134	185	51	Massage Therapist or Body Worker	44	53	9
Architect	49	60	11	Music Therapist	44	53	9
Architectural/Engineering Corporation	47	70	23	Nurse, Advanced Practice Prescriber	69	73	4
Art Therapist, Registered	44	53	9	Nurse, Licensed Practical	54	69	15
Athletic Trainer	44	53	9	Nurse, Registered	52	66	14
Auction Company	47	56	9	Nurse-Midwife	47	70	23
Auctioneer	135	174	39	Nursing Home Administrator	111	120	9
Audiologist	100	106	6	Occupational Therapist	49	59	10
Barber or Cosmetologist	55	63	8	Occupational Therapy Assistant	48	62	14
Barbering or Cosmetology Establishment	47	56	9	Optometrist	61	65	4
Barbering or Cosmetology Instructor	91	91	0	Pharmacist	73	97	24
Barbering or Cosmetology Manager	68	71	3	Pharmacy	47	56	9
Barbering or Cosmetology School	138	138	0	Physical Therapist	51	62	11
Cemetery Authority	343	343	0	Physician	122	106	-16
Cemetery Preneed Seller	61	61	0	Physician Assistant	59	72	13
Cemetery Salesperson	90	90	0	Podiatrist	140	150	10
Chiropractor	139	168	29	Private Detective	89	101	12
Counselor, Professional	63	76	13	Private Detective Agency	47	53	6
Dance Therapist, Registered	44	53	9	Private Security Person	49	53	4
Dental Hygienist	48	57	9	Psychologist	105	157	52
Dentist	105	131	26	Real Estate Broker	109	128	19
Designer of Engineering Systems	52	58	6	Real Estate Business	57	56	-1
Dietitian	47	56	9	Real Estate Salesperson	79	83	4
Drug Distributor	47	70	23	Respiratory Care Practitioner	50	65	15
Drug Manufacturer	47	70	23	School Psychologist, Private Practice	69	103	34
Electrologist	65	76	11	Social Worker	54	63	9
Electrology Establishment	47	56	9	Social Worker, Advanced Practice	53	70	17
Electrology Instructor	86	86	0	Social Worker, Independent	55	58	3
Electrology School	71	71	0	Social Worker, Independent Clinical	69	73	4
Electrology Specialty School	44	53	9	Soil Scientist	44	53	9
Engineer, Professional	49	58	9	Soil Science Firm	44	53	9
Fund-Raiser, Professional	91	93	2	Speech-Language Pathologist	53	63	10
Fund-Raising Counsel	44	53	9	Time-Share Salesperson	103	119	16
Funeral Director	140	135	-5	Veterinarian	95	105	10
Funeral Establishment	47	56	9	Veterinary Technician	48	58	10
Geologist, Professional	48	59	11				
Geology Firm/Corporation	44	53	9				
Hearing Instrument Specialist	100	106	6				
Home Inspector	44	53	9				

8. EVALUATION OF CURRENT METHODOLOGIES USED TO ESTABLISH INITIAL AND RENEWAL CREDENTIAL FEES [LFB Paper 792]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$30,000	- \$30,000	\$0

Governor: Provide one-time funding of \$30,000 in 2001-02 to retain a consultant to study the current methodologies used by the Department to set initial and renewal credential fees each biennium. The executive budget book states that the review would ensure that the fee-setting methodology is documented and straightforward in its administration, represents the actual costs associated with the regulation of each licensed profession and provides adequate revenues to support agency operations. No submission date is specified for the consultant's report.

Joint Finance/Legislature: Replace consultant study and associated funding with a request that the Joint Legislative Audit Committee direct the Legislative Audit Bureau (LAB) to conduct an evaluation of the methodologies used by R&L for calculating administrative and enforcement costs and recommending changes to fees for issuing and renewing credentials. The purpose of the audit would be to determine whether the Department's methods are adequately documented and straightforward in administration, represent the actual costs associated with the regulation of licensed professions and provide sufficient revenues to support the agency's operations. If the LAB conducts such an audit, direct that it report its findings by June 30, 2002.

Veto by Governor [E-35]: Delete provision.

[Act 16 Vetoed Section: 9132(3v)]

9. NOTICE OF CREDENTIAL RENEWAL BY ELECTRONIC TRANSMISSION

Governor/Legislature: Authorize the Department to send renewal notices to a credential holder by means of electronic transmission at least 30 days prior to the credential renewal date for the profession. The Department would continue to have the authority under current law to mail the renewal notice to the last address provided by the credential holder. Current law stipulations that the failure to receive a mailed notice does not relieve the credential holder from disciplinary proceedings, proceedings for practicing without a license or the payment of a \$25 late renewal penalty would also apply in the case of a failure to receive a notice of renewal sent by electronic transmission.

[Act 16 Section: 3507]

10. TREATMENT OF CRIMINAL BACKGROUND CHECK FEE REVENUES [LFB Paper 793]

GPR-REV	\$29,800
PR	- \$92,600

Joint Finance/Legislature: Require that 10% of the total revenues received from criminal background check fees and credited to the Department's applicant investigation reimbursement appropriation be deposited to the general fund. Adjust expenditures under this appropriation by -\$46,300 PR annually to reflect actual experience and estimate GPR-Earned receipts of \$14,900 annually.

[Act 16 Section: 465m]

11. GPR-EARNED REESTIMATE [LFB Paper 794]

GPR-REV	\$739,200
---------	-----------

Joint Finance/Legislature: Reestimate GPR-Earned collections for the Department by \$371,500 in 2001-02 and \$367,700 in 2002-03. The reestimate is due to: (a) increased initial and renewal credential fee revenues credited to the general fund (\$200,100 in 2001-02 and \$196,300 in 2002-03); and (b) increased examination fee revenues credited to the general fund (\$171,400 annually).

12. INCLUSION OF AN INSTITUTIONAL PHARMACIST ON THE PHARMACY EXAMINING BOARD

Joint Finance/Legislature: Require that one of the five pharmacist members of the seven-member Pharmacy Examining Board be employed in a pharmacy that provides pharmaceutical services primarily on an inpatient basis, including a pharmacy in a hospital, nursing home, correctional facility, or other institution. Specify that this requirement would first become effective for appointments to the Board made on and after July 1, 2002.

Veto by Governor [E-36]: Delete provision.

[Act 16 Vetoes Sections: 182q, 182r and 9443(2x)]

13. CONVEYANCE OF CEMETERY PLOTS

Joint Finance: Provide that a person holding an interest in a cemetery lot, after providing written notice to the cemetery authority where the lot is located, may convey the person's interest in the lot to his or her spouse, child, sibling or parent without the consent of the cemetery authority.

Provide that if an individual, who is not prohibited under regulations adopted by a religious cemetery authority or an affiliated religious society from being buried in the cemetery, conveys his or her interest in the lot to his or her spouse, child, sibling or parent, the religious

cemetery authority may not prohibit the burial of the spouse, child, sibling or parent in the cemetery.

Under current law provisions governing cemetery authorities, these provisions would not apply to veterans cemeteries.

Senate: Modify the provision by allowing a religious cemetery authority to prohibit the conveyance of a cemetery plot and the burial of a relative if the relative is in a class of individuals that is prohibited under regulations adopted by the cemetery authority from being buried in the cemetery.

Assembly/Legislature: Delete provision.

14. REGULATION OF CEMETERY AUTHORITIES AND SALESPERSONS

	Legislature (Chg. to Base)	Veto (Chg. to Leg)	Net Change
SEG-REV	\$174,000	- \$174,000	\$0

Senate: Provide for the regulation of cemetery authorities, other than religious cemetery authorities (except as specifically indicated), as follows:

Creation of a Cemetery Board. Create a seven-member Cemetery Board under the Department of Regulation and Licensing (R&L) that would be authorized to investigate and impose disciplinary actions against cemetery authorities, cemetery salespersons, and preneed sellers that violate certain statutory requirements and administrative rules promulgated by R&L. Specify that the Board would have no authority over religious cemeteries, cemetery salespersons who work for religious cemeteries, and preneed sellers who work for religious cemeteries.

Specify that members of the Cemetery Board would include the following: (a) four members who are business representatives of a licensed cemetery authority; (b) a representative of the Department of Justice, as designated by the Attorney General; and (c) two public members. Of the business members of the Board, one must represent a for-profit licensed cemetery authority; one must represent a non-profit licensed cemetery authority; and one must represent a municipal cemetery authority. No member of the Board may be a business representative of a religious cemetery authority. Provide that the members of the Board who are business representatives or public members would be subject to Senate confirmation and provide for transition terms for the initial members of the Board. Require the Board to meet at least four times per year and authorize Board members to receive a \$25 per diem and actual and necessary meeting expenses.

General Powers and Duties of the Board. Require the Board to do each of the following: (a) advise the Secretary of R&L on matters relating to cemeteries; (b) independently exercise its powers, duties and functions with respect to the licensure and registration of cemetery authorities, cemetery sales persons and cemetery preneed sellers under Subchapter VIII of Ch. 440 of the statutes; (c) be the supervising authority of all personnel, other than shared personnel, engaged in the review, investigation or handling of information regarding the administration of discipline by persons or entities subject to cemetery licensure or registration; (d) maintain all records pertaining to the Board's operations; (e) compile and keep current a registry of all persons licensed or registered under the Department's cemetery regulatory authority and make those records and registries available to the public; and (f) require cemetery authorities, upon reasonable notice, to make records and contracts available for inspection and reproduction.

Specify that the Board would not have rule-making authority but could comment on rules developed by R&L governing the regulation of cemetery authorities, cemetery salespersons or cemetery preneed sellers (other than rules governing religious cemetery authorities). Require R&L to submit any proposed rule relating to nonreligious cemetery authorities to the Board for comment. Provide that the Board would have 30 days to submit its comments to the Department. Require the Department to submit copies of any emergency rules relating to cemeteries to the Board prior to the rule's publication. Authorize the chairperson of the Board to co-chair any public hearing held by the Department on a proposed rule. Specify that the Department provide staff to assist the Board in preparing its comments and reports on any proposed rules.

Licensure Requirements. Replace the current cemetery authority registration requirement with a licensure requirement applicable to each nonreligious cemetery authority that is more than five acres in size that sells more than 20 burial spaces per year or has \$100,000 or more in trust fund accounts. Require a separate license for each cemetery that meets these requirements. Under current law, a cemetery authority must be registered with R&L if the authority sells or solicits the sale of 10 or more cemetery lots per year.

Stipulate that the Department would be required to grant a license to the authority, if all of the following conditions are satisfied: (a) the authority submits on a form provided by R&L the names of the officers of the cemetery authority and the business representative who is primary responsible for the authority's compliance with cemetery regulations; and (b) the cemetery authority agrees to pay an initial licensure fee [\$53 for the 2001-03 biennium] and the costs of any background investigations conducted by the Department [currently \$29 per investigation]. The cemetery authority would also be subject to the current law requirement that it renew its license on January 1 of every odd-numbered year [\$343 for the 2001-03 biennium], except that a licensed authority would not be required to renew its license if it sells less than 10 burial sites during a period of two consecutive calendar years. However, if the cemetery authority does exceed this threshold, specify that it would again be required to renew its license with R&L for the ensuing two-year period.

Specify that if a licensed cemetery authority notifies the Department that the authority will be sold, and R&L does not object to the transaction, the existing license would be revoked and the authority would be required to apply for a new license.

Provide that if a nonreligious cemetery authority does not exceed the sales and trust fund thresholds described above, it would not have to be licensed by R&L but would be subject to a registration requirement. Establish a new \$5 registration fee for this purpose, payable on January 1 of each odd-numbered year. Delete a current law exemption from registration currently applicable to not-for profit cemetery authorities and cemetery authorities operated by a city, town or village. However, provide that a cemetery authority that receives no income, other than gifts, from the sale of lots or services or from trust fund earnings would not be required to register with R&L.

Specify that if a registered cemetery authority notifies the Department that the authority will be sold, and R&L does not object to the transaction, the existing registration would be revoked and the authority would be required to apply for a new registration.

Require the Board to restrict, limit or suspend any license or registration when requested to do so by the Department.

Newly require a cemetery salesperson and a cemetery preneed seller to be licensed rather than registered by R&L. Licensure of cemetery salespersons would apply to any person who sells more than 20 burial spaces during a two calendar year period. Under current law, registration is required for cemetery salespersons who sell ten or more cemetery or mausoleum lots during a single year. Delete the current law exemptions from registration for cemetery salespersons who sell burial spaces in nonreligious cemeteries that are exempt from registration as cemetery authorities and for preneed sellers who work for not-for-profit cemeteries. However, no license would be required for an individual who is under the direct supervision of a licensed cemetery salesperson.

Care of Abandoned and Neglected Cemeteries by Municipalities. Repeal the current law requirements that if the operator of a cemetery fails to care for the cemetery for a period of one or more years, the city, town or village in which the cemetery is located may take control of the property and manage and care for the cemetery and collect and manage all trust funds connected with the cemetery. Further, repeal the current law requirement that if the operator of a cemetery fails to care for the cemetery for a period of five or more years, the city, town or village in which the cemetery is located must take control of the property and manage and care for the cemetery and collect and manage all associated trust funds. Finally, repeal a current law provision that when a cemetery located in a town falls into neglect, disuse or abandonment and no cemetery association exists, the ownership and operation of the cemetery must be transferred to the town and the town board, at the expense of the town, must take charge of the property and manage and care for it.

Newly provide that if a city, village or town determines that a cemetery authority (including a religious cemetery authority) has failed to care for the cemetery for a period of six months or more, the municipality must notify the cemetery authority that it has 90 days to correct the failure. For good cause, authorize the municipality to grant the cemetery authority one 90-day extension to correct the failure. Provide that if the municipality finds that the cemetery authority has not corrected the failure within the time period specified, the municipality may, after a public hearing, take control of the cemetery and collect funds from the cemetery authority necessary for the care of the cemetery.

Upon application by R&L, newly authorize a court to enjoin a person from acquiring ownership or control of a cemetery if the person has abandoned another cemetery that subsequently became subject to control by a municipality.

Trustees for Certain Cemeteries. Provide that in response to a petition by the Board or upon his or her own motion, the Attorney General would be required to petition the circuit court in a county where a cemetery is located for the appointment of a trustee. This provision would not apply to cemeteries where a municipality had assumed ownership, control or management of the facility. Require the court to hold a hearing to determine if the cemetery has been neglected, improperly maintained or was in a state of disuse or financial distress. Where the court finds that any of these conditions apply, authorize the appointment of a trustee, other than the Department or the Board, for the cemetery. In addition, authorize the owner of a cemetery to petition the court for an order surrendering title to the cemetery to a new owner, other than the state, if the owner believes itself incapable of continuing to operate the cemetery. If the court grants the petition, it shall transfer title of the cemetery to a new owner and appoint a trustee.

Direct a court-appointed trustee to do all of the following: (a) be responsible for the management, maintenance and operation of the cemetery; (b) comply with all annual reporting requirements to R&L; and (c) provide the court with any required information, records, or reports that the court may direct.

Authorize a trustee to petition the court for the following additional authority: (a) termination the trusteeship and reversion of the ownership and operation of the cemetery to the previous owner; (b) termination of the trusteeship and transfer of the ownership and operation of the cemetery to a new owner, other than the state; (c) removal and reinterment of human remains; (d) termination of the trusteeship and closing of the cemetery following the removal and reinterment of the human remains.

Finally, authorize a trustee to do any of the following: (a) seek a new owner or operator for the cemetery; (b) assess burial spaces for cleaning, care or improvement; (c) expend funds from a newly created cemetery management insurance fund for the purpose of carrying out the trustee's duties; (d) employ professional, legal, technical experts, managers, agents, and employees as required to carry out the trustee duties; and (e) take any other action necessary for useful management or trusteeship of the cemetery or mausoleum.

Direct the court that appointed the trustee to terminate the trusteeship if any of the following applies: (a) the owner or operator of the cemetery or mausoleum demonstrates that the conditions that necessitated the trusteeship have been remedied and the person is competent and capable of managing the facility; (b) the court determines that the new operator is competent and capable of operating the facility; (c) the court finds that the proposed sale of the facility is to an owner that is competent and capable of operating the cemetery or mausoleum on a financially sound basis; or (d) the court approves of the closure of the facility after all human remains have been removed and reinterred.

Creation of a Cemetery Management Insurance Fund. Create a Cemetery Management Insurance Fund as a nonlapsing segregated trust fund under the management of the State of Wisconsin Investment Board. Create a new, SEG-funded sum sufficient appropriation account to make disbursements to trustees who assume the management and operation of cemeteries and mausoleums under court order. Specify that the Fund would consist of monies collected from the following: (a) a \$10 filing fee for death certificates; and (b) a \$1 surcharge on certified copies of death certificates. Since religious cemetery associations are not subject to the trusteeship provisions of the proposal, funds from the Cemetery Management Insurance Fund could not be used for such facilities.

Maintenance of Cemeteries. Newly require a cemetery authority to maintain a cemetery, its buildings, burial spaces, grounds, landscaping, parking lots, fences and other structures in a reasonable manner at all times.

Provide that if a cemetery authority receives a gift for the improvement, maintenance, repair, preservation or ornamentation of a burial space or structure in a cemetery, the authority shall either expend the funds or place them in a trust account. The authority would be required to maintain a gift ledger that accounts for all gift receipts and disbursements.

Department Review and Approval of Certain Cemetery Transactions. Newly prohibit a cemetery authority from taking any of the following actions, until it has notified R&L in writing: (a) the sale or encumbrance of any land, other than the routine sale of burial spaces; (b) the transfer of ownership or control of 50% or more of the assets or stock of the cemetery; (c) a transaction that results in a person acquiring ownership or control of 50% or more of the stock of the cemetery; or (d) the transfer of responsibility for the management or operation of the cemetery authority. The Department would be authorized to object to any of these types of transactions, in which case, the transaction could not proceed.

Care Funds and Preneed Trust Funds. Newly require a cemetery treasurer to maintain a bond in the amount of the total annual amount of all principal payments on care funds, as stated in the authority's most recent annual report to R&L. Clarify that cemetery authorities may not withdraw a care fund's principal amounts but may withdraw interest, dividends, or capital gains earned in the most recently completed calendar year. Authorize the Department to request proposals from state financial institutions for the purpose of selecting an institution for use by cemetery authorities and preneed sellers for the deposit of preneed trust funds. A

cemetery authority or preneed seller would not be required to use the financial institution unless the Department had previously determined that the authority or seller had violated the management and investment of such funds in the past.

Delete the current law exemption that preneed sellers of caskets and casket vaults must deposit into a trust fund 40% of the principal received under the preneed sales contract, if such individuals sell or solicit the sale of fewer than 10 cemetery lots annually.

Where the Department or Board has cause to believe that a licensed or registered cemetery authority has not complied with current law provisions governing the maintenance and investment of trust funds and accounts, specify the cemetery authority may be required to submit an audit conducted at the authority's expense.

Burial Space Purchase Agreements. Newly specify that before a cemetery authority may enter into a burial space purchase agreement, the authority must disclose any opening or closing fees charged. Require the agreement to be in writing and include the terms and conditions and other pertinent information, including the price of the space, perpetual care requirements, resale, inheritance, cancellation and refund rights. The agreement must also list all goods and services that are reasonably expected at the time of need that are not covered by the agreement. Require each burial agreement to be assigned a serial number.

Reburial Requirements. Specify that if a cemetery authority violates current law reburial procedures and notifications, the owner could be fined up to \$1,000 or imprisoned for up to 90 days, or both. Under current law a cemetery authority may rebury human remains, if an error has been made in the burial process. Within 30 days of the reburial the cemetery authority must provide notice to the coroner or medical examiner of the county in which the reburial takes place. The authority must also inform the spouse, or next available family member. Under current law, failure to provide proper reburial notification may result in a civil forfeiture of \$200 for each offense.

Code of Ethics for the Professional Conduct of Cemetery Authorities. Authorize the Department to promulgate rules establishing a code of ethics for licensed cemetery authorities, licensed cemetery salespersons and licensed preneed sellers. Provide that a person violating the code could be denied licensure by the Department. Persons who operate a cemetery authority, or are licensed cemetery salespersons or licensed preneed sellers who make misrepresentations, engage in practices that demonstrate a lack of knowledge or ability, violate the Department's code of ethics, violate applicable cemetery regulatory laws, are impaired by mental disease or defect or due to drug and alcohol use or violate an order of the Department may be subject to a forfeiture of no more than \$5,000 per occurrence, with each day of violation being a separate occurrence. The forfeiture could be in addition to any license revocation, limitation, suspension or denial.

Other Penalties. Newly provide that any cemetery authority that sells 10 or more burial spaces during a calendar year or has \$100,000 or more in trust fund accounts and operates without a license granted by R&L would be subject to a fine of not more than \$100.

Investigation of Religious Cemetery Authorities. Stipulate that if the Department has reason to believe that a religious cemetery authority has violated any aspect of cemetery regulations applicable to such authorities and that a continuation of the activity might cause injury to the public interest, the Department would be authorized to investigate the matter.

Submission of Reports to the Department. Require any cemetery authority that must be licensed to submit an annual report to R&L. Require religious cemetery associations to submit an annual report to the Department unless the authority makes an annual certification to the agency. Under current law, cemetery authorities with annual operating budgets in excess of \$2,500 must submit an annual report to R&L. Religious cemetery associations may submit an annual certification to the Department rather than an annual report.

Authorize the Department to promulgate rules governing the minimum standards for records used in preparing the reports, eliminate the requirement that certain financial records be filed with the Department of Financial Institutions and require licensed cemetery authorities to maintain records with respect to the location of burial spaces at the facility.

Fiscal Effect -- Cemetery Management Insurance Fund. The cemetery management insurance fund would be supported from: (a) a \$10 fee collected for the filing of a death certificate; and (b) a \$1 fee charged for all certified copies of a death certificate.

Based on the number of death certificates issued in the last three years, as adjusted by the recent trend in the annual number of deaths, 49,230 death certificates are anticipated for 2001-02 and 50,260 are anticipated for 2002-03, resulting in fee collections for the Cemetery Management Insurance Fund of \$492,300 SEG-REV in 2001-02 and \$502,600 SEG-REV in 2002-03. Currently, there are approximately 4,000 certified copies of death certificates issued by the state each year, resulting in an additional \$4,000 SEG-REV annually. It is unknown the number of certified death certificates that would be prepared annually by local vital records offices. Total annual revenues from both the above fee sources are estimated at \$496,300 SEG-REV in 2001-02 and \$506,600 SEG-REV in 2002-03. It is not known whether or not any trustees would be appointed to manage and operate a cemetery authority during the 2001-03 biennium; consequently, it is not possible to estimate the level of expenditures under the Fund's sum sufficient appropriation.

Fiscal Effect -- Licensure of Cemetery Authorities. There are 62 cemetery authorities registered under current law. The Department estimates that an additional 288 authorities would newly be subject to licensure and an additional 550 authorities would newly be subject to registration. The newly licensed authorities would generate an additional \$1,500 GPR-Earned and \$13,800 PR-REV during the 2001-03 biennium. The new registrations would generate an additional \$300 GPR-Earned and \$2,500 PR-REV during the 2001-03 biennium. Total license

and registration fee collections from cemetery authorities would total \$1,800 GPR-Earned and \$16,300 PR-REV during the 2001-03 biennium.

Conference Committee/Legislature: Modify Senate provision to provide for the regulation of cemetery authorities in Milwaukee County only, other than religious cemetery authorities (except as specifically indicated), as follows:

General Credentialing Requirements. Before granting a credential to a cemetery authority, cemetery salesperson, or preneed seller, or renewing such a credential, newly require the Department to conduct an investigation to determine whether the person has been convicted of an offense relating to the sale of a cemetery lot, cemetery merchandise or mausoleum space.

Under current law, a cemetery authority must be registered with R&L if the authority sells or solicits the sale of 10 or more cemetery lots per year. Registration is also currently required for cemetery salespersons who sell ten or more cemetery or mausoleum lots during a single year. Delete the current law exemptions from registration for town, village, city, fraternal or benevolent society cemetery authorities or their salespersons in Milwaukee County.

Care of Abandoned and Neglected Cemeteries by Municipalities. Newly provide that if a city, village or town in Milwaukee County determines that a cemetery authority (including a religious cemetery authority) has failed to care for the cemetery for a period of six months or more, the municipality must notify the cemetery authority that it has 90 days to correct the failure. For good cause, authorize the municipality to grant the cemetery authority one 90-day extension to correct the failure. Provide that if the Milwaukee County municipality finds that the cemetery authority has not corrected the failure within the time period specified, the municipality may, after a public hearing, take control of the cemetery and collect funds from the cemetery authority necessary for the care of the cemetery.

Upon application by R&L, newly authorize a court to enjoin a person from acquiring ownership or control of a cemetery in Milwaukee County if the person has abandoned another cemetery in this state that subsequently became subject to control by a municipality.

Trustees for Certain Cemeteries. Provide that in response to a petition by the Department or upon his or her own motion, the Attorney General would be required to petition the Circuit Court in Milwaukee County for the appointment of a trustee. This provision would not apply to cemeteries where a municipality had assumed ownership, control or management of the facility. Require the court to hold a hearing to determine if the cemetery has been neglected, improperly maintained or was in a state of disuse or financial distress. Where the court finds that any of these conditions apply, authorize the appointment of a trustee, other than the Department, for the cemetery. In addition, authorize the owner of a cemetery to petition the court for an order surrendering title to the cemetery to a new owner, other than the state, if the owner believes itself incapable of continuing to operate the cemetery. If the court grants the petition, it shall transfer title of the cemetery to a new owner and appoint a trustee.

Direct a court-appointed trustee to do all of the following: (a) be responsible for the management, maintenance and operation of the cemetery; (b) comply with all annual reporting requirements to R&L; and (c) provide the court with any required information, records, or reports that the court may direct.

Authorize a trustee to petition the court for the following additional authority: (a) termination the trusteeship and reversion of the ownership and operation of the cemetery to the previous owner; (b) termination of the trusteeship and transfer of the ownership and operation of the cemetery to a new owner, other than the state; (c) removal and reinterment of human remains; (d) termination of the trusteeship and closing of the cemetery following the removal and reinterment of the human remains.

Finally, authorize a trustee to do any of the following: (a) seek a new owner or operator for the cemetery; (b) assess burial spaces for cleaning, care or improvement; (c) expend funds from a newly created cemetery management insurance fund for the purpose of carrying out the trustee's duties; (d) employ professional, legal, technical experts, managers, agents, and employees as required to carry out the trustee duties; and (e) take any other action necessary for useful management or trusteeship of the cemetery or mausoleum.

Direct the court that appointed the trustee to terminate the trusteeship if any of the following applies: (a) the owner or operator of the cemetery or mausoleum demonstrates that the conditions that necessitated the trusteeship have been remedied and the person is competent and capable of managing the facility; (b) the court determines that the new operator is competent and capable of operating the facility; (c) the court finds that the proposed sale of the facility is to an owner that is competent and capable of operating the cemetery or mausoleum on a financially sound basis; or (d) the court approves of the closure of the facility after all human remains have been removed and reinterred.

Creation of a Cemetery Management Insurance Fund. Create a Cemetery Management Insurance Fund as a nonlapsing segregated trust fund under the management of the State of Wisconsin Investment Board. Create a new, SEG-funded sum sufficient appropriation account to make disbursements to trustees who assume the management and operation of cemeteries and mausoleums under court order. Specify that the Fund would consist of monies collected from the following: (a) a \$10 filing fee for death certificates issued in Milwaukee County; and (b) a \$1 surcharge on certified copies of death certificates issued in Milwaukee County. Since religious cemetery associations would not be subject to the trusteeship provisions of the proposal, funds from the Cemetery Management Insurance Fund could not be used for such facilities.

Maintenance of Cemeteries. Newly require a cemetery authority in Milwaukee County to maintain a cemetery, its buildings, burial spaces, grounds, landscaping, parking lots, fences and other structures in a reasonable manner at all times.

Provide that if a cemetery authority in Milwaukee County receives a gift for the improvement, maintenance, repair, preservation or ornamentation of a burial space or structure in a cemetery, the authority shall either expend the funds or place them in a trust account. The authority would be required to maintain a gift ledger that accounts for all gift receipts and disbursements.

Provide that a cemetery authority in Milwaukee County may not provide an outer burial container or, if an outer burial container is not used, a casket, to a cemetery authority of a cemetery, other than a religious cemetery authority, for the burial of human remains, unless the person identifies the decedent by name on the exterior of the outer burial container or casket.

Department Review and Approval of Certain Cemetery Transactions. Newly prohibit a cemetery authority in Milwaukee County from taking any of the following actions, until it has notified R&L in writing: (a) the sale or encumbrance of any land, other than the routine sale of burial spaces; (b) the transfer of ownership or control of 50% or more of the assets or stock of the cemetery; (c) a transaction that results in a person acquiring ownership or control of 50% or more of the stock of the cemetery; or (d) the transfer of responsibility for the management or operation of the cemetery authority. The Department would be authorized to object to any of these types of transactions, in which case, the transaction could not proceed.

Care Funds and Preneed Trust Funds. Newly require a cemetery authority treasurer in Milwaukee County to maintain a bond in the amount of the total annual amount of all principal payments on care funds, as stated in the authority's most recent annual report to R&L. Clarify that cemetery authorities within Milwaukee County may not withdraw a care fund's principal amounts but may withdraw interest, dividends, or capital gains earned in the most recently completed calendar year. Authorize the Department to request proposals from state financial institutions for the purpose of selecting an institution for use by Milwaukee County cemetery authorities and preneed sellers for the deposit of preneed trust funds. A cemetery authority or preneed seller would not be required to use the financial institution unless the Department had previously determined that the authority or seller had violated the management and investment of such funds in the past.

Require a preneed seller in Milwaukee County to deposit into a preneed trust fund an amount equal to at least 40% of each payment of principal that is received from the sale of cemetery merchandise under a preneed sales contract. If a preneed seller sells an undeveloped space in Milwaukee County under a preneed sales contract, the preneed seller shall deposit at least 40% of each payment of principal that is received from the sale of the undeveloped space into a preneed trust fund.

Where the Department has cause to believe that a registered cemetery authority has not complied with current law provisions governing the maintenance and investment of trust funds and accounts, specify the cemetery authority may be required to submit an audit conducted at the authority's expense. Newly, require the Department to audit the records, trust funds, and accounts of each registered cemetery authority in Milwaukee County.

Reburial Requirements. Specify that if a cemetery authority in Milwaukee County violates current law reburial procedures and notifications, the owner could be fined up to \$1,000 or imprisoned for up to 90 days, or both. Under current law a cemetery authority may rebury human remains, if an error has been made in the burial process. Within 30 days of the reburial the cemetery authority must provide notice to the coroner or medical examiner of the county in which the reburial takes place. The authority must also inform the spouse, or next available family member. Under current law, failure to provide proper reburial notification may result in a civil forfeiture of \$200 for each offense.

Submission of Reports to the Department. Require any cemetery authority in Milwaukee County that must be registered to submit an annual report to R&L and, upon reasonable notice, to make records and contract available for inspection and reproduction. Require religious cemetery associations to submit an annual report to the Department unless the authority makes an annual certification to the agency. Newly require Milwaukee County cemetery authorities to provide information on the percentage of burial spaces, at the cemetery, that are available for sale. Under current law, cemetery authorities with annual operating budgets in excess of \$2,500 must submit an annual report to R&L. Religious cemetery associations may submit an annual certification to the Department rather than an annual report.

Authorize the Department to promulgate rules governing the minimum standards for records used in preparing the reports, and require registered cemetery authorities in Milwaukee County to maintain records with respect to the location of burial spaces at the facility.

Further, require the Department to promulgate rules that specify the documentation that must be provided for: the sale of any cemetery land (not including individual burial plots); the transfer of ownership or management of the cemetery authority. These rules would only apply to nonreligious and for-profit cemeteries in Milwaukee County.

Finally, require the Department to promulgate rules that interpret the requirements for the transfer of a burial space. These rules shall include a requirement that a person who transfers their interest in a burial plot shall provide written notice, prepared by the Department, describing the rights of the transferee.

Regulation of Religious Cemetery Authorities. Clarify that any religious cemetery authority in the state may prohibit the burial of remains of an individual in the cemetery if the individual is in a class of individuals prohibited from being buried in the cemetery under regulations of the authority or affiliated church, synagogue, mosque or religious order.

Fiscal Effect -- Cemetery Management Insurance Fund. The Cemetery Management Insurance Fund would be funded from: (a) a \$10 fee collected for the filing of a death certificate issued in Milwaukee County; and (b) a \$1 fee charged for all certified copies of a death certificate issued in Milwaukee County.

Based on the number of death certificates issued in the last three years, as adjusted by the recent trend in the annual number of deaths in Milwaukee County, it is estimated that 8,600 death certificates are likely to be issued in 2001-02 and 8,800 are likely to be issued in 2002-03, resulting in fee collections for the Cemetery Management Insurance Fund of \$86,000 SEG-REV in 2001-02 and \$88,000 SEG-REV in 2002-03. It is unknown the number of certified death certificates that would be prepared annually by the Milwaukee County vital records offices. It is not known whether or not any trustees would be appointed to manage and operate a cemetery authority during the 2001-03 biennium; consequently, it is not possible to estimate the level of expenditures under the Fund's sum sufficient appropriation.

Fiscal Effect -- Registration of Milwaukee County Cemetery Authorities. There are 62 cemetery authorities registered under current law. A small number of municipal, fraternal or benevolent society cemetery authorities in Milwaukee County may become subject to a biennial \$53 registration fee under this proposal. The number of such cemetery's authorities is unknown and the fiscal impact departmental fees would be minimal.

Veto by Governor [E-34]: Delete provision.

[Act 16 Vetoed Sections: 395 (as it relates to s. 20.165(1)(q)), 465p, 1104p, 1144m, 2077, 2093, 2100m, 2852bb thru 2852Lt, 2852ob thru 2852yu, 3492w, 3504f, 3504h, 3504k and 3605gb thru 3605ux]

15. REQUIRE CERTAIN CEMETERY AUTHORITIES TO PROVIDE FOR BURIALS DURING EACH SEASON

Senate/Legislature: Require cemetery authorities to provide for burials during each season, insofar as practicable. Authorize the authority to charge a reasonable fee to recover the costs related to providing for a burial during difficult weather conditions. Stipulate that these provisions would not apply to a municipality that has taken control of an abandoned or derelict cemetery.

[Act 16 Section: 2852n]

16. REGULATION OF CLOSING AGENTS AND USE OF INTEREST ON CLOSING AGENT REAL ESTATE TRUST ACCOUNTS

Senate: Provide that all interest earned on real estate trust accounts maintained by closing agents be transferred to the State Public Defender (SPD) for program administration costs of the SPD office, including the costs of interpreters and of discovery materials but excluding the costs under two SPD appropriations associated with administration costs of appointing private bar attorneys to represent indigent clients and administration costs associated with collecting payments from indigent clients. Create a closing agent interest on real estate trust accounts appropriation under the Department of Administration (DOA) to receive these interest

payments. Create an interest on real estate trust accounts; closing agents appropriation under the SPD to receive the interest payment monies from the DOA appropriation. Modify the current interest on real estate trust accounts appropriation in DOA to be the interest on real estate trust accounts; brokers appropriation and continue to provide that interest on real estate trust accounts maintained by brokers would be used for grants to alleviate homelessness.

Current law does not require closing agents to register with the Department of Regulation and Licensing (R&L). This amendment would provide that no person, including an escrow agent, may engage in the business or occupation of, or hold himself or herself out as, a closing agent unless the person is registered as a closing agent by R&L. Require R&L to issue a certificate of registration as a closing agent to a person who submits an application to R&L on a form provided by the Department, pays the initial credential standard fee of \$53 and submits evidence satisfactory to R&L that he or she is competent to act as a closing agent. Require renewal applications to be submitted to R&L on a form provided by R&L on or before January 1 of each odd-numbered year to include the renewal fee of \$53. It is unknown the number of closing agents that would be subject to these regulations.

Define "closing agent" to mean any person who coordinates the closing of a conveyance of real estate by ensuring that title to the real estate is transferred to the buyer and that the purchase price is transferred to the seller, except that "closing agent" does not include any of the following: (a) a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting under the judgment or order of any court; (b) a public officer while performing his or her official duties; (c) a depository institution; (d) an employee of a person specified in paragraphs (a) to (c) when the employee is engaged in the specific performance as such an employee; and (e) an attorney licensed to practice law in Wisconsin while acting within the scope of his or her attorney's license.

Require a closing agent who holds closing funds to establish an interest-bearing common trust account in a depository institution and to deposit all closing funds into the required trust account. Define "closing funds" to mean any money related to the closing of a real estate conveyance that is received by the closing agent. "Closing funds" would not include client funds, unless the client funds are transferred to a closing agent. Apply the statutory provisions governing broker trust accounts to the trust accounts required to be established by closing agents.

Apply the statutory provisions governing the investigation and discipline of brokers, salespeople and time-share salespeople to closing agents. Require a closing agent to allege and prove that he or she is a duly registered closing agent before being permitted to bring or maintain a court action for collection of a commission or compensation for performance. Provide that these changes would take effect on the first day of the 10th month after the effective date of the bill.

Conference Committee/Legislature: Include Senate provision but provide that all interest earned on the real estate trust accounts maintained by closing agents would be

transferred to DOA for grants to organizations that provide shelter or services to the homeless, rather than to the State Public Defender for administrative costs.

Veto by Governor [E-33]: Delete provision.

[Act 16 Vetoes Sections: 3579c, 3608cg thru 3608cr, 3608dg, 3608dq thru 3608gr, 3608hg thru 3608Lg and 9443(3km)]

17. DENTAL ACCESS

Senate: Provide for the following changes to dental services effective July 1, 2002.

Regional Dental Examinations. Newly authorize the Dental Examining Board, attached to the Department of Regulation and Licensing (DRL), to issue a dentist license to an applicant who has passed an examination of either a dental testing service approved by the Board or a regional dental testing service in the United States. Under current law, the Board is required to grant a dentist license to a person who does all of the following: (1) submits an application for licensure; (2) pays the specified fee; (3) submits evidence of graduation from an accredited dental school; (4) submits evidence that he or she has passed the national dental examination and the examination of a dental testing service approved by the board; (5) passes an examination administered by the board on the statutes and rules relating to dentistry; and (6) completes any other requirements established by the board by rule.

Licensure of Dentists from Other Jurisdictions. Require the Dentistry Examining Board to grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another state or territory of the United States or in Canada upon presentation of the license, payment of the required fee, and submission of evidence satisfactory to the Board that he or she has met all of the following conditions: (1) graduation from a school accredited by the American Dental Association's Commission on Dental Accreditation; (2) presentation of a certificate from each jurisdiction where the applicant has previously been licensed that no disciplinary action is pending and detailing any such action that has been imposed; (3) presentation of evidence that the applicant has been actively engaged in the practice of dentistry in one or more other jurisdictions for at least 48 of the last 60 months; (4) presentation of evidence that the applicant has completed a jurisprudence examination on Wisconsin statutory and administrative code requirements relating to dental hygiene; (5) presentation of evidence that the applicant has a current certificate of proficiency for cardiopulmonary resuscitation; (6) presentation of evidence that the applicant has disclosed all discipline ever taken against the individual shown in reports from the National Practitioner Data Bank and the American Association of Dental Examiners; and (7) the applicant has provided a satisfactory response during a personal interview with the Board that the Board may require to resolve any conflicts between the licensing standards and the applicant's application or to inquire into any discipline that was imposed against the applicant in any other jurisdiction.

Specify that the Board may refuse to grant a license to an applicant following an interview if the Board determines that discipline that was imposed against the applicant in another jurisdiction demonstrates that the applicant is unfit to practice dentistry.

Current law specifies that the Board may grant a license to practice dentistry to a person who is licensed and in good standing in another state or U.S. territory or another country if the applicant meets the requirements for licensure established by the Board by rule and presents the license and pays the specified fee.

Dental Hygienist's Scope of Practice. Specify that a dental hygienist would be authorized to practice dental hygiene only if a dentist is present in the facility or pursuant to a dentist's oral or written prescription that meets the requirements set forth in current law, with two exceptions.

The first exception authorizes a dental hygienist to practice at a school for the education of dental hygienists without a dentist present in the facility and without a written or oral prescription. A dental hygienist may apply sealants on a patient at a school for the education of dental hygienists without a diagnosis or treatment plan by a dentist, if the dental hygienist has performed an oral risk assessment.

The second exception authorizes a dental hygienist to practice in the facility without a dentist present and without an oral or written prescription if the dental hygienist meets specified education and experience requirements and practice specified procedures. The dental hygienist is authorized to perform those practices only in the following settings or circumstances: (1) for a school board or a governing body of a private school; (2) for a facility or a hospital that provides care for terminally ill patients; (3) for a local health department; (4) for a charitable institution open to the general public or to members of a religious sect or order; (5) for a nonprofit home health care agency; and (6) for a nonprofit dental care program serving primarily indigent, economically disadvantaged, or migrant worker populations. Under this second exception, the dental hygienist is permitted to practice as specified in the bill if he or she meets specified education and experience requirements and is certified by the Board in dental hygiene practice circumstances without a dentist present and without a prescription. Under the bill, an individual is required to have two years experience as a dental hygienist and meet additional educational requirements in order to obtain the certificate.

Under current law, a dental hygienist may practice dental hygiene or perform remediable procedures only as an employee or as an independent contractor and only in one of the following eight specified settings or circumstances: (1) in a dental office; (2) for a school board or a governing body of a private school; (3) for a school for the education of dentists or dental hygienists; (4) for a nursing home or community-based residential facility, a hospital, a state or federal prison, county jail or other federal, state, county or municipal correctional or detention facility, or a facility established to provide care for terminally ill patients; (5) for a local health department; (6) for a charitable institution open to the general public or to members of a religious sect or order; (7) for a nonprofit home health care agency; and (8) for a nonprofit dental care program serving primarily indigent, economically disadvantaged or migrant worker

populations. Generally, a dentist must be present in the facility or the practice is being performed pursuant to a dentist's written or oral prescription.

Delegation of Dentistry Practices. Authorize a dentist to delegate any dentistry practices not included in dental hygiene to a dental hygienist, except for those practices that are prohibited practices by a dental hygienist under current law. In order for the delegation to occur, the delegated acts must be ones that, in the opinion of the dentist and the dental hygienist, the dental hygienist is competent to perform based on his or her education, training, or experience. In addition, require the dental hygienist's performance of the practice to be inspected by a dentist.

Authorize the delegation of remediable dental procedures to unlicensed persons if certain requirements are met. Specify that the practice must be one for which delegation is not prohibited [removal of supra- or subgingival calcareous deposits, deep scaling or root planning, conducting an oral screening without the written prescription of a dentist, participating in the development of a dental patient's dental hygiene treatment plan or any other practice specified by rule of the Board]. Additionally, require that the person must have graduated from an accredited dental assisting program or have worked at least 1,000 hours during the preceding 12 months in a clinical dentistry setting. Further, stipulate that the dentist making the delegation must document in his or her records that the person has been trained or educated to do the dental practice. Finally, specify that the delegated practices must be ones that, in the opinion of the dentist and the individual to whom the practices are delegated, the individual is competent to perform based on his or her education, training, or experience.

Under current law, a dentist may delegate to an unlicensed person the performance of remediable procedures if certain conditions are met. In addition, a dentist may delegate to a dental hygienist the performance of remediable procedures and the administration of oral systemic premedications, local anesthesia, and subgingival sustained release chemotherapeutic agents, if certain requirements are met.

Educational Dentist's License. Require the Dentistry Examining Board to grant a license to practice dentistry to an applicant who is a faculty member at a school of dentistry in Wisconsin if specified conditions are met. Marquette University School of Dentistry is the only school of dentistry in this state. Specify that the person must present his or her license to the board, pay the required fee and submit evidence satisfactory to the Board that he or she has met the seven conditions, one of which is that he or she is a faculty member at a school of dentistry in this state. Authorize the Board to refuse to grant a license to an applicant following an interview if the Board determines that discipline that was imposed against the applicant in another jurisdiction demonstrates that the applicant is unfit to practice dentistry. In addition, an educational dentist's license granted would no longer be in effect if the licensee ceases to be a full-time faculty member at a school of dentistry in this state.

Conference Committee/Legislature: Delete provision.

18. RESTRICTED USE OF TITLE FOR ALCOHOL AND DRUG COUNSELORS

Assembly: Require the Department to certify alcohol and drug counselors and prohibit any person from using the title "alcohol counselor," "drug counselor," "alcohol and drug counselor," "substance abuse counselor," "chemical dependency counselor," "certified alcohol counselor," "certified drug counselor," "certified alcohol and drug counselor," "certified substance abuse counselor," "certified chemical dependency counselor" or "certified alcohol and other drug abuse counselor" or use any title that implies such certification, unless the person has actually been certified by the Department. Define an alcohol and drug counselor as a person who engages in alcohol and drug counseling for compensation, and define alcohol and drug counseling as counseling for the assessment, treatment, or prevention of alcohol, drug or other substance addiction or abuse. Persons subject to certification as an alcohol and drug counselor would be under the direct regulation of the Department. No separate examining board would be created under this provision.

Specify that these certification provisions would not apply to a person holding a license, permit, registration, or certification granted by this state or the federal government who does not use a title that implies certification as an alcohol and drug counselor. Clarify that the current licensure requirements for professional counselors [Chapter 457 of the statutes] do not authorize a credential holder to use the titles of alcohol counselor or drug counselor.

Promulgation of Rules. Require the Department in consultation with DHFS to promulgate rules that: (a) establish the education, training, competency, or examination requirements for certification as an alcohol and drug counselor; and (b) establish a code of ethics governing alcohol and drug abuse counselor credential holders. Authorize these rules to specify the services that a credential holder is qualified to perform and the degree of supervision, if any, required to perform such services and to establish continuing education requirements for credential holders. Direct that the rules waive some or all of the certification requirements for person who apply for certification within two years of the effective date of the provision and can show that they were employed in an alcohol and drug counseling.

Certification Requirements. Require the Department to grant a certification as an alcohol and drug counselor if the applicant: (a) submits an application on a form provided by the Department; (b) pays the initial licensure fee [\$83 for the 2001-03 biennium]; and (c) submits evidence satisfactory to the Department that the applicant satisfies the requirements established by the Department, by rule, for alcohol and drug counselors. Authorize the Department to grant reciprocal credentials to applicants holding a similar credential in another jurisdiction, upon payment of the applicable fee [\$53 for the 2001-03 biennium], if the Department determines that the requirements for granting the credential in the other jurisdiction are substantially equivalent to those required for licensure in Wisconsin.

Establish a credential renewal date of July 1 or each odd-numbered year and establish a credential renewal fee for the 2001-03 biennium of \$53. In addition to the requirements that an applicant for submit the appropriate renewal form provided by the Department and pay the

appropriate renewal fee, specify that if the Department has established continuing education requirements for alcohol and drug counselors, the applicant for renewal must submit satisfactory evidence of completion of the requirements.

Investigation of Misconduct. Consistent with current rules, authorize the Department to make investigations and conduct hearings to determine whether a violation relating to the use of title of alcohol and drug counselors has occurred. Authorize the Department to reprimand a credential holder or deny, limit, suspend, or revoke a certification, where the person has: (a) made a material misstatement in an application for certification or for renewal of a certification; (b) been adjudicated mentally incompetent; (c) advertised in a manner that is false, deceptive, or misleading; (d) advertised, practiced, or attempted to engage in alcohol and drug counseling under another person's name; (e) engaged in alcohol and drug counseling while impaired by alcohol or other drugs; (f) engaged in conduct while engaged in alcohol and drug counseling that jeopardizes the health, safety, or welfare of a patient or client or which evidences a lack of knowledge or ability to apply professional principles or skills; (g) violated the Department's rules and statutory regulations governing the profession; or (h) aided another person in violating this provision or any rule promulgated under this provision. Authorize the Department, the Attorney General, or a district attorney to investigate and, if necessary, bring an action to enjoin a person from continuing the violation.

Penalties. Authorize forfeitures of not more than \$5,000 for the first offense and forfeitures of not more than \$10,000 for the second or any subsequent offense within a year with each day of continued violation constituting a separate offense. Provide that any person intentionally these new rules and regulations could be fined up to \$10,000 or imprisoned for up to nine months, or both.

Specify that these provisions would become effective on the first day of the 13th month following the general effective date of the biennial budget act.

It is estimated that initially 1,850 alcohol and drug counselors would be subject to certification, resulting in credential fee revenues of \$44,100 PR-REV and \$4,900 GPR-Earned annually.

Conference Committee/Legislature: Delete provision.

19. CERTIFIED PUBLIC ACCOUNTANT REGULATION MODIFICATIONS

Assembly/Legislature: Make the following changes relating the regulation of certified public accountants (CPAs):

Regulation of Certified Public Accountants. Authorize the Accounting Examining Board to grant a certificate as a CPA to an applicant that has at least one year, rather than the current two years, of public accounting experience or its equivalent. Delete references to a "public

accountant" and repeal the authority of the Board to grant certificates of authority to persons or firms to practice as "public accountants."

Regulation of Firms. Authorize the organization of an accounting services corporation if more than 50% of the shareholders are CPAs. Under current law, all of the shareholders must be CPAs. Newly include proprietorships, partnerships, limited liability partnerships, corporations, service corporations, and limited liability companies under the definition of "firms" and subject these entities to regulation.

Require firms that apply for a CPA license to: (a) submit an application for the license, and pay the specified fee; (b) identify each office of the firm that is located in the state; (c) where any person with an ownership interest in the firm is not licensed, designate a licensed individual responsible for the firm's compliance with state licensure requirements; and (d) demonstrate that all "attest services" provided by the firm are under the charge of a licensed CPA, that more than 50% of the ownership interest in the firm is held by licensed individuals who are CPAs, and that those unlicensed individuals with an ownership interest are persons that actively participates in the firm or an affiliated entity. Require the Board to promulgate rules defining "ownership interest" in a firm.

Attest Services. Define "attest service" as any of the following: (a) an audit or any other engagement that is performed in accordance with the statements on auditing standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants; (b) a review of a financial statement that is performed in accordance with the statements on standards for Accounting and Review Services Committee by the American Institute of Certified Public Accountants; (c) an examination of prospective financial information that is performed in accordance with the statements on standards for attestation engagements issued by the Auditing Standards Board, the Accounting and Review Services Committee, and the Consulting Services Executive Committee of the American Institute of Certified Public Accountants.

Require the Board to promulgate rules adopting by reference all of the following: (a) the statements on auditing standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants; (b) the statements on standards for accounting and review services issued by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants; (c) the statements of standards for attestation engagements issued by the Auditing Standards Board, the Accounting and Review Services Committee, and the Consulting Services Executive Committee of the American Institute of Certified Public Accountants.

Peer Review. Beginning January 1, 2005, require CPA firms to undergo a peer review at least once every three years. Define "peer review" as a process for a CPA licensee to evaluate the professional competency of the members of a firm who are responsible for attest services provided by the firm or on behalf of the firm. Stipulate that the peer review must be conducted

by a person approved by the Board that is not affiliated with the firm or members of the firm undergoing review.

Require the Board to promulgate rules describing the peer review, including requirements for the Board to approve individuals to conduct the peer reviews. Require the rules to require each person approved by the Board to conduct peer reviews to periodically report on the effectiveness of the peer reviews and to provide the Board with a listing of all firms that have undergone peer review conducted by the person. Provide that a person approved to conduct peer reviews may not disclose any information obtained or document produced during the course of or as a result of a review, unless the firm undergoing the review consents to the disclosure.

Exceptions to Prohibitions on Practicing without a License. Newly provide that licensure by the Board would not be required for any person who: (a) performs services involving the use of accounting skills, including management advisory services, the preparation of tax returns, and the preparation of financial statements without issuing reports on the statements; (b) prepares financial statements and issues information that does not purport to be in compliance with the statement on standards for accounting and review services issued by the American Institute of Certified Public Accountants; or (c) a public official in the performance of his or her duties.

[Act 16 Sections: 1384m, 1385m, 1457m, 2004g, 2004j, 2022tj, 2404g, 2404r, 2405m, 2666m, 2760p, 2760r, 2814dd thru 2814dt, 2850bm, 2920c, 2920g, 2920n, 2920r, 2920w, 2923g, 2923r, 2932d, 2943m, 2952m, 2972d, 2972g, 3020d, 3020L, 3020m, 3020n, 3024m, 3504w, 3508m, 3510m, 3606pb thru 3606vz, 3608bf, 3649m, 3862yg and 3862yr]

20. EDUCATIONAL DENTIST'S LICENSE

Assembly/Legislature: Require the Dentistry Examining Board to grant a license to practice dentistry to an applicant licensed in good standing to practice dentistry in another jurisdiction upon presentation of the license provided the applicant also meets all of the following conditions: (a) pays an initial credential fee [\$53 for the 2001-03 biennium]; (b) submits evidence satisfactory to the Board that the applicant has been offered full-time employment as a faculty member at a school of dentistry in Wisconsin; and (c) makes responses during any interview the Board may require that demonstrate, to the Board's satisfaction, that the applicant is competent to practice dentistry.

Stipulate that this license would permit the faculty member to practice dentistry only within educational facilities, and only for the purpose of carrying out his or her teaching duties. Create a \$131 renewal fee payable October 1 of each odd-numbered year for persons licensed as a visiting faculty member dentist. Specify that when a person licensed as a visiting faculty member dentist ceased to be employed as a full-time faculty member at a school of dentistry in Wisconsin, the license would no longer be in effect. Marquette University School of Dentistry is

the only school of dentistry in the state. Authorize the Board to promulgate rules to implement these licensure provisions.

[Act 16 Sections: 3532m, 3608bc and 3608be]

21. DENTISTRY EXAMINING BOARD MEMBERSHIP

Assembly/Legislature: Repeal provisions of 1997 Wisconsin Act 96 that would have reduced the membership of the Dentistry Examining Board from six to five dentists and from three to one dental hygienist, effective December 31, 2002.

[Act 16 Sections: 182g, 182i and 9443(1m)]

22. SUPERVISION OF REAL ESTATE BROKERS IN BRANCH OFFICES

Assembly/Legislature: Repeal the requirement that if a real estate broker maintains a branch office, each office must be under the direct, full-time supervision of a broker, who is responsible for the acts and conduct of all brokers, salespersons and time-share salespersons at the branch office. Specify instead that each broker shall supervise and be responsible for the acts of any salesperson or time-share salesperson employed by the broker. Under current law, the broker is responsible for such acts of his or her employees. Grant the Department the authority to promulgate rules specifying the supervisory duties of brokers.

[Act 16 Sections: 3608cs, 3608dm, 3608dp and 3608h]